

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

DOROTHY WHITAKER,

Plaintiff,

vs.

Civ. No. 18-1046 KG/JFR

XAVIER BECERRA, SECRETARY,  
U.S. Department of Health and Human Services,

Defendant.

ORDER

On April 16, 2021, Defendant timely filed a “Motion to Amend Memorandum Opinion and Order (Doc. 56)” (Motion to Amend). (Doc. 58). Defendant moves under Fed. R. Civ. P. 52(b) and 59(e) to amend pages 24 and 26 of the Court’s March 19, 2021, Memorandum Opinion and Order (Doc. 56). That Memorandum Opinion and Order granted, in part, Defendant’s Motion for Summary Judgment and Memorandum in Support (Doc. 36).

The Court notes that Plaintiff has failed to respond to the Motion to Amend. “The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion.” D.N.M. LR-Cv 7.1(b). Considering that Plaintiff’s failure to respond to the Motion to Amend constitutes consent to grant the Motion to Amend and considering the requested amendments, the Court finds good cause to grant the Motion to Amend.

The Court further notes that granting the Motion to Amend does not affect the Court’s decision to grant summary judgment in Defendant’s favor only on the Title VII claim based on race or color discrimination. *See* (Doc. 56) at 32.

IT IS ORDERED that the Motion to Amend Memorandum Opinion and Order (Doc. 56),  
Doc. 58) is granted.

  
UNITED STATES DISTRICT JUDGE